IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 20907 of 1995

Between:

A. Jaganmohan Reddy, s/o Hanmantha Reddy, age 26 yrs, Secondary Grade Teacher CVM Aided Committee Elementary School, Sarin nagar, Kaluur Mandal, Kurnool.

..... PETITIONER

AND

1. The District Educational Officer, Kurnool District, Kurnool
2. C.V.M. Aided Committee Elementary School, Sarin Nagar, Kaluur Mandal, Kurnool District, represented by Correspondent Smt. C.Nagaratnamma, 45-142-60A, Venkataramana Colony, Kurnool
3. A.V.Subba Rayudu, Secondary Grade Teacher, M.P.P. Elementary School, Pedda Ananthapuram, Atmakur Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, writ or direction (1) to declare the proceedings of 1st respondent Rc. No. 1576.B5/95 dated 28.8.1995 as illegal and without jurisdiction, (b) to direct the respondents 1 and 2 not to interfere with appointment of the petitioner to the aided post of Secondary Grade Teacher in 2nd respondent-school (c) to direct the respondents 1 and 2 to pay the salary to the petitioner w.e.f. 14.6.1995 till date and to continue to pay the same continuously hereafter.

For the Petitioner: MR.P.BALA KRISHNA MURTHY, Advocate
For the Respondent No. 1 : GP FOR SCHOOL EDUCATION
For the Respondent No.2 and 3 : None appeared

The Court made the following :

ORAL ORDER

This Writ Petition is filed by the petitioner questioning the proceedings of the 1st respondent, dated 28.8.1995, and for consequential direction to continue him as an aided Secondary Grade Teacher in the 2nd respondent-school and also to pay salary with effect from 14.06.1995 and to continue the same.

The grievance of the petitioner is that he is fully qualified to be appointed as Secondary Grade Teacher and was selected by duly constituted Selection Committee on 23-05.1995 and the said selection was approved by the 1st respondent-District Educational Officer by his proceedings dated 12.6.1995. His contention is that though he was selected to the aided post, unilaterally the 1st respondent cancelled the said appointment without assigning any reasons or show cause notice and as such he was constrained to approach this Court and filed the present writ petition. In the said writ petition, he filed two miscellaneous petitions i.e. W.P.M.P.Nos. 25673/1995 and 25674/1995. While admitting the writ petition, this Court by its order, dated 18th September, 1995, observing that the said cancellation unilaterally without issuing any show cause notice or holding enquiry prima facie is not tenable in law and accordingly directed the respondents to continue him as a Secondary Grade Teacher to which post he was selected and also to pay him salary until further orders.

No counter-affidavit is filed.

Heard the learned counsel for the petitioner. It is represented by the learned counsel for the petitioner Sri Balakrishna Murthy that pursuant to the interim orders passed by this Court, the petitioner was allowed to continue in service and he was paid his salary as aided teachetr regularly.

From the facts narrated before this Court, it is clear that he is fully qualified to be appointed as Secondary Grade Teacher and it is not as if he was appointed on ad hoc or on temporary basis, but was appointed by duly constituted Selection Committee on 23.5.1995 after interviewing the candidates. Further, the said selection was approved by the 1st respondent-District Educational Officer on 12.6.1995. When such is the case, it is not known for what reasons the petitioner was removed from out of the service. When once the selection is purely in accordance with the law and the said selection was approved, even if the respondents want to remove or terminate him from out of the service, the principles of natural justice require that he should be served with a show cause notice. In the instant case, it is clear that no show cause notice was issued to the petitioner and as such the said action of the 1st respondent in terminating him from out of the service on 12.6.1995 is violative of principles of natural justice. Hence, this Court has no hesitation to hold that the said order of the 1st respondent-District Educational Officer, dated 12.6.1995, is liable to be set aside, and accordingly the same is set aside.

In the result, this writ petition is allowed. No costs.

9th September, 2004

vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Ninth day of September, two thousand and four.

Sd/-

ASSISTANT REGISTRAR

To

1. The District Educational Officer, Kurnool District, Kurnool

2. 2 C.Cs to Govt Pleader for School Education, High Court buildings, Hyderabad (OUT)

3. 2 C.D. copies.